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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,039	03/23/2006	Hartmut Ortlieb	Y3-18	7047
39648	7590	04/16/2007		
ANDREW F. YOUNG, LACKENBAUGH SIEGEL, LLP ONE CHASE ROAD SCARSDALE, NY 10583			EXAMINER KELLEHER, WILLIAM J	
			ART UNIT	PAPER NUMBER
			3673	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/519,039	ORTLIEB, HARTMUT	
	Examiner	Art Unit	
	Bill Kelleher	3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-31 is/are pending in the application. .
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. The substitute specification filed March 23, 2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 24, 29, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "flame resistant" in claim 24 is a relative term which renders the claim indefinite. The term "flame resistant" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of compact prosecution, all materials are considered to have some degree of flame resistance.

Claim 29 contains the trademark/trade name VEKTRAN. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any

Art Unit: 3673

particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a modified polyester and, accordingly, the identification/description is indefinite.

The terms "high strength" and "inherently poor adhesion" in claim 30 are relative terms which render the claim indefinite. The terms "high strength" and "inherently poor adhesion" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degrees, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of compact prosecution, all materials are considered to have high strength and inherently poor adhesion."

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-18, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang (U.S. Patent 6,108,835) in view of Goto (U.S. Patent 3,892,820).

Regarding Claim 15, Hwang discloses a self-inflating mat, comprising: a first foamed material (46) hermetically covered by means of outer layers of cloth (32, 34, 36,

Art Unit: 3673

as shown on top and bottom of 46 in Figure 2 of Hwang); said outer layers of cloth being sealed on edges thereof (Shown in Figure 2 of Hwang); valve means (30) for adjustably connecting said foamed material to external atmosphere. Hwang does not disclose at least one layer of said cloth including a hot pressed yarn coated with a thermoplastic material. Goto, however, discloses a thermoplastic resin that "can be applied onto the surfaces or interfaces of fibers and fabrics in the form of film, yarn, powder, etc., and subsequently hot-pressed to effect [sic] the bonding of the latter materials." See Goto Column 7, Lines 5-10. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a hot pressed yarn coated with thermoplastic as disclosed by Goto for at least one of Hwang's cloth layers. The motivation would have been to strengthen the cloth.

Regarding Claim 16, Hwang as modified discloses a self-inflating mat comprising: a core layer of an open foam material; outer layers of a fabric covering each of opposite sides of said core layer, edges of said outer layers being airtightly sealed together, at least one of said outer layers comprising a hot-pressed yarn coated with a thermoplastic material; and a valve connecting said core layer with an ambient environment.

Regarding Claims 17 and 18, MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The claimed fabric covering is anticipated by Hwang as modified. The process by which the fabric is formed is not a patentable distinction

Art Unit: 3673

(Claim 17). Goto discloses coating yarn with a thermoplastic material and it is well known to weave and knit yarn into fabric. The order in which the coating and weaving and knitting occur is not a patentable distinction (Claim 18).

Regarding Claim 24 as best understood, Hwang as modified discloses a self-inflating mat in accordance with claim 16, wherein: the thermoplastic material and the yarn are flame resistant.

Regarding Claim 25, MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The claimed mat is anticipated by Hwang as modified. The process by which additional element applications are applied is not a patentable distinction. Hwang as modified is capable of having additional element applications applied.

Regarding Claims 26-29, Hwang as modified discloses the claimed invention except for the materials claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use these materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. See also Ballas Liquidating Co. v. Allied industries of Kansas, Inc. (DC Kans) 205 USPQ 331.

Regarding Claim 30 as best understood, Hwang as modified discloses a self-inflating mat in accordance with claim 16, wherein said fabric comprises high strength yams having an inherently poor adhesion property.

Art Unit: 3673

4. Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang as modified as applied to claim 16 above, and further in view of Firkins (U.S. Patent 6,058,535).

Regarding Claim 19, Hwang as modified discloses the self-inflating mat in accordance with claim 16; but does not disclose a foil coating on an outer layer. Firkins, however, discloses a cushion with a foil coating on the outer layer. Firkins discloses "The first and second facings 22, 26 preferably are moisture vapor impermeable sheets, having at least one layer of aluminum foil" in Column 2, Lines 36-38. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to coat Hwang as modified with foil. The motivation would have been to keep the core dry by preventing moisture vapor permeation. It would have also been obvious to use a foil with a lower melting point than the material the coating is being applied to. The motivation would have been to only melt the coating for application, while not melting the material the coating is being applied to. Melting both at the same time could cause potentially undesirable mixing effects.

Regarding Claims 20 and 21, Firkins discloses the teaching of using foil as described above, and also suggests using a second foil by disclosing "at least one layer of aluminum foil." Therefore, it would have been obvious to include a second foil coating to improve the impermeability. It would have also been obvious to chose a second foil with a lower melting point than the first foil. The motivation would have been to only melt the second coating for application, while not melting the first foil coating. Melting both at the same time could cause potentially undesirable mixing effects.

Art Unit: 3673

Regarding Claims 22 and 23, MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The claimed mat and foil coatings are anticipated by Hwang as modified. The process by which the first and second foil coatings are applied is not a patentable distinction.

5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang in view of Goto, and in further view of Haar (U.S. Patent 5,303,435). Hwang in view of Goto as described above meets the structural limitation of each mat as claimed, but does not disclose more than one mat connected by a welded on profile element. Haar, however, discloses a plurality of connected self inflating mats (22 and 23) connected by a welded on profile element (14). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide more than one mat and connect them with a welded on profile element as taught by Haar. The motivation would have been to make the mat easier to roll up for carrying (See abstract of Haar) and to accommodate larger users.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,357,387 to George discloses using quartz yarn, aramid fibers, and modified polyesters.




Art Unit: 3673

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Kelleher whose telephone number is (571)-272-7753. The examiner can normally be reached on Monday - Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571)-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patricia Engle  
Supervisory Patent Examiner  
Art Unit 3673

BK

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3/30/07